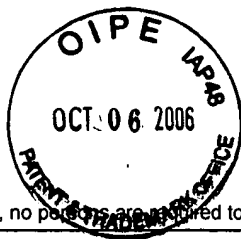


Doc Code: AP.PRE.REQ




PTO/SB/33 (07-05)

Approved for use through xx/xx/200x. OMB 0651-00xx

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)
		1035-357
	Application Number	Filed
	10/006,246	December 10, 2001
	First Named Inventor	
	NII, Y et al.	
	Art Unit	Examiner
	2143	L. Truong
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>		
<p>I am the</p> <p><input type="checkbox"/> Applicant/Inventor</p> <p><input type="checkbox"/> Assignee of record of the entire interest. See 37 C.F.R. § 3.71. Statement under 37 C.F.R. § 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input checked="" type="checkbox"/> Attorney or agent of record <u>34,725</u> (Reg. No.)</p> <p><input type="checkbox"/> Attorney or agent acting under 37CFR 1.34. Registration number if acting under 37 C.F.R. § 1.34 _____</p>		
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.*</p> <p><input checked="" type="checkbox"/> *Total of 1 form/s are submitted.</p>		
<p> Signature</p> <p>Michael J. Shea</p> <p>_____ Typed or printed name</p> <p>703-816-4029 Requester's telephone number</p> <p>October 6, 2006 Date</p>		

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and selection option 2.



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of

NII, Y. et al.

Atty. Ref.: 1035-357; Confirmation No. 8949

Appl. No. 10/006,246

TC/A.U. 2143

Filed: December 10, 2001

Examiner: L. Truong

For: INSIDE-VEHICLE INFORMATION COMMUNICATION METHOD, INSIDE-VEHICLE  
INFORMATION COMMUNICATION APPARATUS, INSIDE-VEHICLE  
INFORMATION COMMUNICATION SYSTEM ...

\* \* \* \* \*

October 6, 2006

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Pursuant to the OG Notice of July 12, 2005, applicants hereby request a pre-appeal brief review of this case for at least the following reasons. This Request accompanies a Notice of Appeal.

**Remarks** begin on page 2.

**REMARKS**

Claims 1-35 are pending in this application.

Applicants' representative thanks Examiner Truong for the courtesy extended during a telephonic interview on October 5, 2006. The following remarks reflect the substance of this interview.

Claims 1-4, 8, 10-24, 28 and 30-35 were rejected under 35 U.S.C. Section 102(e) as allegedly being "anticipated" by Murphy (U.S. Patent No. 6,232,874).

Independent claim 1 is directed to an inside-vehicle information communication method in which a server, provided in a vehicle, is caused to output a request for electronic ticket information to an electric device possessed by a passenger of the vehicle, upon receipt of a request for connection from the electric device. The server is caused to receive the electronic ticket information, outputted from the electric device upon receipt of the request for the electronic ticket information. The server is also caused to confirm, based on the electronic ticket information, whether the passenger has a right to use the vehicle and to allow the electric device to be connected to the server to enable communication therebetween in the vehicle if the server confirms that the passenger has the right to use the vehicle.

Murphy is directed to controlling use of a vehicle by a "restricted operator" and describes that the restricted use may arise because of "one or more recent convictions of the operator for driving under the influence of alcohol or drugs, because of recent physical, mental or emotional impairment or the advanced age of the operator, or because of other similar reasons." Col. 1, lines 16-20. Murphy further describes that "...a vehicle driver activates the vehicle by turning on the ignition system and thereby activates the driver control system." The ability of the driver to operate the vehicle is determined based on an indicium and/or a token provided to an apparatus 170.

First, Murphy does not disclose a server. In the discussion in the final office action of claim 12, which is alleged to be "exemplary" with respect to claims 1-4, 8, 10, 11, 16, 17 and 31-33, no allegation is even made that Murphy discloses a server. Consequently, the final office action cannot be said to have even set forth a prima facie basis for the rejection of these claims.

During the aforementioned interview, the Examiner made reference to a Microsoft dictionary definition of "server" in support of a contention that the control system of Murphy can

be viewed as a server. This dictionary definition is not of record in this application. Moreover, the dictionary definition apparently makes reference to a server program that responds to commands from a client. In terms of Murphy, it is not clear what would constitute the client supplying commands to the control system. Applicants submit that there is no showing in the record that Murphy contains a server and that the rejections are improper for this reason alone.

Second, as discussed during the aforementioned interview, Applicants agree with the Examiner that Murphy discloses a token storing information that can be used to determine whether a person can operate a vehicle and/or whether there are certain time and geographic restrictions on that operation. However, there is no disclosure in Murphy that any component thereof outputs a request for electronic ticket information to an electric device possessed by a passenger upon receipt of a request for connection from the electric device or that information about a passenger's right to use a vehicle is used to determine whether the electric device can be connected to a server to permit communication therebetween. Consequently, for at least these additional reasons, Murphy cannot anticipate claim 1. *See, e.g., Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631 (Fed. Cir. 1987) ("A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.").

Independent claims 2, 16, 17 and 32 are believed to patentably distinguish over Murphy for at least the reasons set forth with respect to claim 1.

Independent claim 10 calls for "allowing the electric device possessed by the passenger to be connected to the inside-vehicle communication apparatus to enable communication therebetween if the managing section confirms that the passenger has the right to use the vehicle." As noted above, in Murphy, the result of confirming a passenger's right to use a vehicle is that operation of the vehicle is permitted. There is no disclosure of the confirming resulting in the connection of an electric device to an inside-vehicle communication apparatus to enable communication therebetween. Murphy cannot anticipate claim 10.

Independent claims 12, 13 and 33 are believed to patentably distinguish over Murphy for at least the reasons set forth with respect to claim 10.

Independent claim 18 is directed to a vehicle-provided communication network that includes a server. As noted above in the discussion of claim 1, Murphy does not disclose a

server and for this reason alone Murphy cannot anticipate claim 18. Moreover, claim 18 further calls for the enabling of information communication in a vehicle, performed between the server and an information communication terminal, only in a case where first and second using conditions are identical to each other. At best, Murphy might disclose enabling operation of the vehicle if certain "conditions" are identical. However, there is no disclosure of enabling "information communication" between a server and an information communication terminal based on checking of "using conditions." For this additional and independent reason, Murphy does not anticipate claim 18.

Independent claim 31 is believed to patentably distinguish over Murphy for at least the reasons set forth with respect to claim 18.

Independent claim 19 specifies certain components of a server in a vehicle-provided communication network system. As noted above in the discussion of claim 1, Murphy does not disclose a server and for this reason alone Murphy cannot anticipate claim 19. Claim 19 also calls for a "relay" with respect to communication performed between an information communication apparatus outside the vehicle and a portable communication terminal. The office action does not identify any component of Murphy that corresponds to a "portable communication terminal." Moreover, Murphy does not disclose relaying of communication from an apparatus external to a vehicle to a portable communication terminal. For these additional and independent reasons, Murphy does not anticipate claim 19.

Independent claim 23 calls for a recording medium issuing apparatus involving a first using condition to use a vehicle-provided communication network and a second using condition to use a vehicle. Even if Murphy is alleged to describe the claimed second using condition, there is nothing in Murphy relating to a using condition to use a vehicle-provided communication network, much less issuing a recording medium in this context. Consequently, Murphy cannot anticipate claim 23.

Independent claim 24 is believed to patentably distinguish over Murphy for at least the reasons set forth with respect to claim 23.

Independent claim 34 calls for certain receiving and determining operations to occur "at a server." As noted above with respect to claim 1, Murphy does not disclose a server and thus cannot anticipate claim 34. Moreover, claim 34 further calls for sending, from the server to an

information terminal, notification information for notifying a passenger that the information terminal is connected to the server and can use the server for in-vehicle information communication. No such notification is provided in Murphy. For this additional and independent reason, Murphy cannot anticipate claim 34.

Independent claim 35 is believed to patentably distinguish over Murphy for at least the reasons set forth with respect to claim 34.

Moreover, the discussion of claim 34 in the office action does not contain any identification of any portions of Murphy which allegedly correspond thereto. Consequently, the office action cannot be said to have even set forth a prima facie basis for the rejection of claim 34.

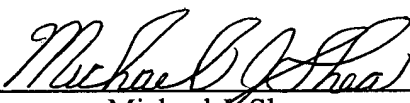
The claims which depend from the above-discussed independent claims are believed to patentably distinguish over Murphy at least because of their respective dependencies.

Fuku et al. and Joao are applied in connection with certain features of dependent claims 25, 26, 27 and 29. The combination of these documents with Murphy would not result in the subject matter of the independent claims from which these claims depend. For at least this reason, claims 25, 26, 27 and 29 patentably distinguish over the applied documents.

For at least these reasons, Applicants respectfully submit that the rejections of the pending claims are improper and should be withdrawn.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:   
Michael J. Shea  
Reg. No. 34,725

MJS:mjs  
901 North Glebe Road, 11th Floor  
Arlington, VA 22203-1808  
Telephone: (703) 816-4000  
Facsimile: (703) 816-4100